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September 29, 2020

By ECF FILING AND COURTESY COPY

The Honorable Sandra J. Feuerstein
United States District Judge
United States District Court for the Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Shakespeare v. Live Well Fin, Inc.*, EDNY Case No. 18-cv-07299-SJF-AYS

Dear Judge Feuerstein:

We represent Plaintiff Shakespeare and proposed new plaintiff Marianne Renois and submit this letter motion pursuant to FED. R. APP. P. 4(a)(5) and FED. R. CIV. P. 52(b). On September 14, 2020, this Court entered its decisions adopting the reports and recommendations of Magistrate Judge Shields as to defendants Celink's and Reverse Mortgage Funding's FED. R. CIV. P. 12(b)(6) motions. Dkt. 133,135. Pursuant to FED. R. CIV. P. 15, Local Rule 7.1(d) and Your Honor's Individual Rule 4.H., today Plaintiffs filed a motion to amend the pleadings and submitted that motion to Magistrate Judge Shields. Even though no judgment as been entered, this Court's dismissal decisions direct the Clerk to close this case. In the event that Plaintiff Shakespeare's deadline to file a notice of appeal is running, she now moves to extend that notice of appeal deadline until the later of (i) a final decision on Plaintiffs' motion to amend; or (ii) the maximum extension permitted by FED. R. APP. P. 4(a)(5)(C). We respectfully submit that the motion to extend the deadline is timely, made in good faith and prior to entry of judgment. *See Sattan v. Eugene*, 92-CV-5364 (JG), 1999 U.S. Dist. LEXIS 11669, at *3-4 (E.D.N.Y. July 28, 1999).

Plaintiffs also request a clarification concerning whether this Court intended to enter final orders that trigger the running of Plaintiff Shakespeare's notice of appeal deadline. In its decision adopting Magistrate Judge Shields' report and recommendation concerning Celink's Rule 12(b)(6) motion, the Court directed the Clerk to "close this case." *See* Dkt. 135 at 24. However, a third defendant to this action, Live Well Financial, Inc. ("LWF"), filed an Answer (Dkt. 37) to Plaintiff Shakespeare's original complaint. Even though LWF was subsequently forced into involuntary bankruptcy proceedings, this action should likely not be marked final while LWF remains a party. The Court seemingly agreed when it held that Plaintiff could take further steps in this action if LWF emerged from bankruptcy. *See* Dkt. 135 at 23. Nevertheless Plaintiff Shakespeare requests clarification to determine whether her time to file a timely notice of appeal is running. *See* 28 U.S.C. §1292; FED. R. APP. P. 4. If the Court did not intend to enter final orders and close this case, Plaintiff Shakespeare respectfully requests a further ruling on that issue pursuant to FED. R. CIV. P. 52(b).

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On September 25, 2020, Plaintiffs' counsel provided notice to counsel for Celinek and RMF and the trustee in the LWF bankruptcy of their intention to file this motion and the motion to amend the pleadings. Counsel for Celinek has indicated her client's objection to the motions. The other parties have not yet indicated their consent or opposition.

Respectfully yours,



Joseph S. Tusa

Oren Giskan

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Julie Nepveu

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AARP FOUNDATION

cc: Counsel of Record (by ECF Filing)
LWF Bankruptcy Trustee (by email)